

## Chapter 49.—FUGITIVES FROM JUSTICE

Sec.

1071. Concealing person from arrest.  
 1072. Concealing escaped prisoner.  
 1073. Flight to avoid prosecution or giving testimony.  
 1074. Flight to avoid prosecution for damaging or destroying any building or other real or personal property.

## AMENDMENTS

1960—Pub. L. 86-449, title II, § 202, May 6, 1960, 74 Stat. 87, added item 1074.

## § 1071. Concealing person from arrest.

Whoever harbors or conceals any person for whose arrest a warrant or process has been issued under the provisions of any law of the United States, so as to prevent his discovery and arrest, after notice or knowledge of the fact that a warrant or process has been issued for the apprehension of such person, shall be fined not more than \$1,000 or imprisoned not more than one year, or both; except that if the warrant or process issued on a charge of felony, or after conviction of such person of any offense, the punishment shall be a fine of not more than \$5,000, or imprisonment for not more than five years, or both. (June 25, 1948, ch. 645, 62 Stat. 755; Aug. 20, 1954, ch. 771, 68 Stat. 747.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—Based on title 18, U. S. C., 1940 ed., § 246 (Mar. 4, 1909, ch. 321, § 141, 35 Stat. 1114).

Section 246 of title 18, U. S. C., 1940 ed., was divided. Part is in this section and the remainder is incorporated in section 752 of this title.

Minor changes were made in phraseology.

## AMENDMENTS

1954—Act Aug. 20, 1954, increased the penalty from 6 months to 1 year where the violator harbored a person for whom process has been issued on a misdemeanor charge and added the penalty provision where the violation occurred after a person has been convicted of any offense or where a process has been issued for a felony.

## CROSS REFERENCES

Harboring or concealing person violating espionage laws, misprision of felony, see section 4 of this title.

## § 1072. Concealing escaped prisoner.

Whoever willfully harbors or conceals any prisoner after his escape from the custody of the Attorney General or from a Federal penal or correctional institution, shall be imprisoned not more than three years. (June 25, 1948, ch. 645, 62 Stat. 755.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—Based on title 18, U. S. C., 1940 ed., §§ 753i, 910 (May 14, 1930, ch. 274, § 10, 46 Stat. 327; May 27, 1930, ch. 339, § 10, 46 Stat. 390).

Section consolidates similar language of said sections of title 18, U. S. C., 1940 ed. Remaining provisions are in section 752 of this title.

Words "willfully harbors" were added in conformity with section 1071 of this title. Punishment for harboring violators of the Espionage laws is provided in section 792 of this title. Punishment for harboring deserters from the armed forces is provided in section 1381 of this title.

Minor changes were made in phraseology.

## CROSS REFERENCES

Misprision of felony, see section 4 of this title.

## § 1073. Flight to avoid prosecution or giving testimony.

Whoever moves or travels in interstate or foreign commerce with intent either (1) to avoid prosecution, or custody or confinement after conviction,

under the laws of the place from which he flees, for a crime, or an attempt to commit a crime, punishable by death or which is a felony under the laws of the place from which the fugitive flees, or which, in the case of New Jersey, is a high misdemeanor under the laws of said State, or (2) to avoid giving testimony in any criminal proceedings in such place in which the commission of an offense punishable by death or which is a felony under the laws of such place, or which in the case of New Jersey, is a high misdemeanor under the laws of said State, is charged, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

Violations of this section may be prosecuted only in the Federal judicial district in which the original crime was alleged to have been committed, or in which the person was held in custody or confinement and only upon formal approval in writing by the Attorney General or an Assistant Attorney General of the United States, which function of approving prosecutions may not be delegated. (June 25, 1948, ch. 645, 62 Stat. 755; Apr. 6, 1956, ch. 177, § 1, 70 Stat. 100; Oct. 4, 1961, Pub. L. 87-368, 75 Stat. 795.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—Based on title 18, U. S. C., 1940 ed., § 408e (May 18, 1934, ch. 302, 48 Stat. 782; Aug. 14, 1946, ch. 735, 60 Stat. 789).

Said section 408e was rewritten and the phrase "offenses as they are defined either at common law or by the laws of the place from which the fugitive flees" were inserted to remove the ambiguity discussed in the opinion of the Circuit Court of Appeals, Third Circuit, in *Brandenburg v. U. S.*, decided September 6, 1944, not yet reported, reversing the conviction of the appellant. The court held that Congress intended the enumerated offenses to mean those as defined at common law. The effect of the rewritten section is to make the statute applicable whether the offense committed is one defined at common law or by the law of the state from which the fugitive flees.

The words "offense punishable by imprisonment in a penitentiary" were substituted for "felony" to make the statute uniformly applicable and to include crimes of the grade of felony even where, as in New Jersey, they are denominated as misdemeanor, high misdemeanor or otherwise.

Words "from any State, Territory, or possession of the United States or the District of Columbia" were omitted in view of definitive section 10 of this title.

Words "upon conviction thereof" were deleted as surplusage since punishment cannot be imposed until a conviction is secured.

Minor changes were made in phraseology.

## AMENDMENTS

1961—Pub. L. 87-368 substituted "a crime, or an attempt to commit a crime, punishable by death or which is a felony under the laws of the place from which the fugitive flees, or which, in the case of New Jersey, is a high misdemeanor under the laws of said State" for "murder, kidnapping, burglary, robbery, mayhem, rape, assault with a dangerous weapon, arson punishable as a felony, or extortion accompanied by threats of violence, or attempt to commit any of the foregoing offenses as they are defined either at common law or by the laws of the place from which the fugitive flees", "death or which is a felony under the laws of such place, or which in the case of New Jersey, is a high misdemeanor under the laws of said State," for "imprisonment in a penitentiary", and required that prosecutions must be upon the formal written approval of the Attorney General or an Assistant Attorney General, which function may not be delegated.

1956—Act Apr. 6, 1956, added words "arson punishable as a felony" after "assault with a dangerous weapon."

## EFFECTIVE DATE OF 1956 AMENDMENT

Section 2 of act Apr. 6, 1956, provided that: "The amendment made by the first section of this Act [to this section] shall take effect on the thirtieth day after the date of enactment of this Act [April 6, 1956]."

## CANAL ZONE

Applicability of section to Canal Zone, see section 14 of this title.

## FEDERAL RULES OF CRIMINAL PROCEDURE

Venue, generally, see rules 18—22, Appendix to this title.

**§ 1074. Flight to avoid prosecution for damaging or destroying any building or other real or personal property.**

(a) Whoever moves or travels in interstate or foreign commerce with intent either (1) to avoid prosecution, or custody, or confinement after conviction, under the laws of the place from which he flees, for willfully attempting to or damaging or destroying by fire or explosive any building, structure, facility, vehicle, dwelling house, synagogue, church, religious center or educational institution, public or private, or (2) to avoid giving testimony in any criminal proceeding relating to any such offense shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

(b) Violations of this section may be prosecuted in the Federal judicial district in which the original crime was alleged to have been committed or in which the person was held in custody or confinement: *Provided, however,* That this section shall not be construed as indicating an intent on the part of Congress to prevent any State, Territory, Commonwealth, or possession of the United States of any jurisdiction over any offense over which they would have jurisdiction in the absence of such section. (Added Pub. L. 86-449, title II, § 201, May 6, 1960, 74 Stat. 86.)

## Chapter 50.—GAMBLING

Sec.

1081. Definitions.

1082. Gambling ships.

1083. Transportation between shore and ship; penalties.

1084. Transmission of wagering information; penalties.

## AMENDMENTS

1961—Pub. L. 87-216, § 3, Sept. 13, 1961, 75 Stat. 491 added item 1084.

1949—Act May 24, 1949, ch. 139, § 23, 63 Stat. 92, added chapter.

## § 1081. Definitions.

As used in this chapter:

The term "gambling ship" means a vessel used principally for the operation of one or more gambling establishments.

The term "gambling establishment" means any common gaming or gambling establishment operated for the purpose of gaming or gambling, including accepting, recording, or registering bets, or carrying on a policy game or any other lottery, or playing any game of chance, for money or other thing of value.

The term "vessel" includes every kind of water and air craft or other contrivance used or capable of being used as a means of transportation on water, or on water and in the air, as well as any ship, boat, barge, or other water craft or any structure capable of floating on the water.

The term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if such vessel is owned by, chartered to, or otherwise controlled by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

The term "wire communication facility" means any and all instrumentalities, personnel, and services (among other things, the receipt, forwarding, or delivery of communications) used or useful in the transmission of writings, signs, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission. (Added May 24, 1949, ch. 139, § 23, 63 Stat. 92, and amended Sept. 13, 1961, Pub. L. 87-216, § 1, 75 Stat. 491.)

## AMENDMENTS

1961—Pub. L. 87-216 included the definition of "wire communication facility."

## § 1082. Gambling ships.

(a) It shall be unlawful for any citizen or resident of the United States, or any other person who is on an American vessel or is otherwise under or within the jurisdiction of the United States, directly or indirectly—

(1) to set up, operate, or own or hold any interest in any gambling ship or any gambling establishment on any gambling ship; or

(2) in pursuance of the operation of any gambling establishment on any gambling ship, to conduct or deal any gambling game, or to conduct or operate any gambling device, or to induce, entice, solicit, or permit any person to bet or play at any such establishment,

if such gambling ship is on the high seas, or is an American vessel or otherwise under or within the jurisdiction of the United States, and is not within the jurisdiction of any State.

(b) Whoever violates the provisions of subsection (a) of this section shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

(c) Whoever, being (1) the owner of an American vessel, or (2) the owner of any vessel under or within the jurisdiction of the United States, or (3) the owner of any vessel and being an American citizen, shall use, or knowingly permit the use of, such vessel in violation of any provision of this section shall, in addition to any other penalties provided by this chapter, forfeit such vessel, together with her tackle, apparel, and furniture, to the United States. (Added May 24, 1949, ch. 139, § 23, 63 Stat. 92.)

## § 1083. Transportation between shore and ship; penalties.

(a) It shall be unlawful to operate or use, or to permit the operation or use of, a vessel for the carriage or transportation, or for any part of the carriage or transportation, either directly or indirectly, of any passengers, for hire or otherwise, between a point or place within the United States and a gambling ship which is not within the jurisdiction of any